

**Temporary, Partial Waiver of 24 CFR § 203.604  
Servicing Responsibilities, Contact with the Mortgagor**

Pursuant to § 7(q) of the Department of Housing and Urban Development Act (codified at 42 U.S.C. § 3535(q)), and the waiver authority contained in 24 CFR § 5.110, I hereby partially waive the requirements of 24 CFR § 203.604, as provided in more detail below. This partial waiver is limited to § 203.604 Contact with the Mortgagor, under Mortgagee Actions under Subpart C – *Servicing Responsibilities* of 24 CFR Part 203 Single Family Mortgage Insurance. This extension of the partial waiver of required face-to-face contact is being issued due to several reasons including, but not limited to, continued public health concerns around the spread of Coronavirus Disease 2019 (COVID-19). Pursuant to the section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), a National Emergency concerning the COVID-19 Pandemic was declared on March 13, 2020, beginning on March 1, 2020, and that expired April 30, 2023 (COVID-19 National Emergency). Although the COVID-19 National Emergency declaration has expired, the COVID-19 virus has not been eradicated and the CDC’s outlook for respiratory disease season (fall and winter 2023-2024) predicts a moderate COVID-19 wave, that when coupled with RSV (respiratory syncytial virus) and the seasonal flu, is anticipated to lead to a similar number of hospitalizations as last year for these three virus, in excess of pre-COVID-19 levels.<sup>1</sup>

Due to continued concerns of increased risk from respiratory infections, many Americans remain concerned about, and avoid, in person contact. We understand from servicers that they continue to experience a shortage of employees and that their vendors may not be operating at full capacity. A significant staffing effort would be required to resume this in person contact with borrowers in default. Further, FHA notes that the use of technology during the COVID-19 pandemic has been successful in achieving the same goals as a face-to-face interaction thereby eliminating the need to push for a return to in person contact. Therefore, considering the CDC Respiratory Disease Season Outlook concerning general on-going public health concerns for many resulting from the combination of COVID-19 pandemic, RSV, seasonal flu, servicer constraints, costs, and safety concerns coupled with the efficacy of the alternative means of

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<sup>1</sup> <https://www.cdc.gov/respiratory-viruses/whats-new/2023-2024-season-outlook.html>.

engagement with borrowers. According to the CDC, significant flu activity can last as late as May. Therefore, HUD has determined that it is appropriate to continue the current waiver to allow servicers and borrowers to engage in a manner they are comfortable with and allows them to protect themselves while doing so, provided the mortgagee complies with the following:

1. The mortgagee must establish contact with the borrower, using alternative methods, e.g., phone interviews, e-mail, video calling services (e.g., Skype, Zoom, WebEx, Microsoft Teams, Facetime, GoToMeeting), other conferencing technology, etc., to meet the requirements of § 203.604 to determine the borrower's circumstances and to determine an appropriate repayment plan, as well as to: [www.hud.gov](http://www.hud.gov) [espanol.hud.gov](http://espanol.hud.gov).
  - i. Inform the borrower that HUD will make information regarding the status and payment history of the borrower's loan available to local credit bureaus and prospective creditors;
  - ii. Inform the borrower of other available assistance, if any; and
  - iii. Inform the borrower of the names and addresses of HUD officials to whom further communications may be addressed.
2. The mortgagee must document their contact with the borrower, following the same protocol that is currently required, noting the alternative methods of contact used in lieu of face-to-face contact.
3. The partial waiver does not apply to 24 CFR § 203.604(e)(1) Face-to-Face requirements are still in place for the Section 248 insurance program.
4. The partial waiver will be in effect until May 31, 2024.

In support of the partial waiver, I make the following Findings and Determinations:

#### FINDINGS

1. HUD's current servicing requirement for FHA-insured forward mortgages that a mortgagee must conduct a face-to-face interview with the borrower may raise safety concerns as we enter a respiratory disease season that the CDC forecasts will be as severe as last year. Despite the expiration of the declared COVID-19 National Health Emergency, there are still concerns over respiratory illnesses, therefore an extension until May 31, 2024, will support mortgagees and borrowers in taking health related precautions until the end of the respiratory disease season.

2. HUD recognizes that there is still public concern about possible transmission of COVID-19, RSV, and seasonal flu from in-person contact, and that mortgagees and borrowers may be hesitant to meet in-person. This could hinder the ability of mortgagees to engage in the substantive conversations necessary to provide appropriate loss mitigation to a borrower if the mortgagee is required to engage in person with the borrower.
3. HUD initially published a temporary partial waiver of this requirement on March 13, 2020, which through subsequent extensions continues through December 31, 2023. This continued partial waiver remains necessary to continue to allow mortgagees and borrowers to efficiently and effectively conduct important conversations as part of early default intervention under FHA's default servicing requirements.
4. HUD has experienced that mortgagees have been able to successfully establish contact with borrowers through alternate methods, gather and convey required information, and determine the borrower's circumstances and appropriate repayment plans, as required by § 203.604 without an in person face-to-face interview. Under the waiver, the required substantive conversations with borrowers in default are being met although they are being conducted using methods other than a face-to-face meeting. Mortgagees are reminded that they continue to be required to comply with FHA's robust requirements on contacting the borrower found in HUD's Single Family Housing Policy Handbook and regulations, including, but not limited to, 24 CFR § 203.604, Contact with the mortgagor.
5. Without the partial waiver, the mandatory compliance with the in person face-to-face interview requirement would resume without regard to any concerns of the borrower or servicer's employees about the risk of exposure to communicable respiratory diseases during respiratory disease season and could result in an increase in non-compliance with FHA requirements by both mortgagees and borrowers who do not wish to communicate in person, and such risk of non-compliance is further exacerbated by servicer staffing and resource constraints.
6. Without the partial waiver, the difficulties in conducting the in-person face-to-face interview and associated delays in engaging with borrowers meaningfully on loss mitigation can impact the efficacy of loss mitigation options, thereby increasing the potential risk to FHA's Mutual Mortgage Insurance Fund (MMIF).

7. HUD has seen the alternative methods of contact provided for in this, and prior, waivers be successful since initially implemented. Servicers have been able to reach defaulted borrowers using these methods as or more successfully than through using in person face-to-face interviews.

## **DETERMINATIONS**

1. To assist in ensuring the continued efficacy of FHA servicing and early default intervention options, a partial waiver of the current face-to-face interview requirement must be granted.
2. The granting of this partial waiver is consistent with the Department's objectives to assist borrowers with loss mitigation home retention options.
3. The granting of this partial waiver for a limited period will reduce potential risk to the MMIF.
4. All other requirements and guidance concerning FHA servicing in 24 CFR Part 203 remain unchanged, except for the temporary, partial waiver of § 203.604 to allow mortgagees to use alternative methods for communicating with borrowers in order to meet the goals of § 203.604.
5. Pursuant to the authority contained in 24 CFR § 5.110, the above findings constitute good cause for granting the partial waiver of § 203.604.
6. This partial waiver does not violate any statutory requirements.

Issued:  
Washington, D.C.

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Julia R. Gorden,  
Assistant Secretary for Housing –  
FHA Commissioner